

No. 9(1)82-6Lab/3236.—In pursuance of the provision of section 17 the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Robindra Textile Mills Pvt. Ltd., 14/5, Mathura Road, Faridabad:—

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD

Reference No. 201 of 1982

between

SHRI KHEM CHAND, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S ROBINDRA TEXTILE MILLS PVT. LTD., 14/5, MATHURA ROAD, FARIDABAD

Shri Darshan Singh, for the workman.

Shri G. S. Chauchary, for the respondent management.

#### AWARD

This reference No. 201 of 1982 has been referred to this Court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/94/82/34020, dated 21st July, 1982 under section (10)(i)(c) of the Industrial Disputes Act, 1947, existing between Shri Khem Chand, workman and the respondent management of M/s. Robindra Textile Mills, Pvt. Ltd., 14/5, Mathura Road, Faridabad. The term of the reference was :—

Whether the termination of service of Shri Khem Chand was justified and in order ? If not, to what relief is he entitled ?

Notices were issued to the parties on receiving this reference order. The parties appeared and filed their pleadings. The case of the workman according to demand notice and claim statement is that he was working in the factory since 10th February, 1974 as Shuttleman and drawing a salary of Rs 300 p. m. He was arrested on 6th May, 1981 on baseless charges. The enquiry was held and he was not allowed to produce his evidence and not allowed to cross-examine the witnesses. The enquiry was arbitrary and one sided. The termination was illegal and against the law. So he is entitled for his reinstatement, continuity of service and back wages.

The case of the respondent according to written statement is that the workman was correctly terminated from the service after proper enquiry. The workman was given charge-sheet in which grave and serious charges were alleged against the claimant. The charges were for disobeying, refusal of work, rebuks to Commander, tried to stab with a knife, threatened to murder, collected miscreants and waiting outside the factory upto 1.30 a.m. for Shri Piare Lal, Commander, which were serious charges under the certified standing order. The enquiry officer was appointed who called the workman for enquiry and the workman participated in the enquiry and the workman left the enquiry when he knew that the charges were proved against him though he was given full opportunity to produce his defence. He was given the opportunity to cross-examine the witnesses. The enquiry was impartial and was conducted according to procedure and law. According to findings of the enquiry officer dated 25th October, 1981 all the charges levelled against the workman, proved *prima-facie* and the workman was held guilty of the charges. So the respondent terminated the services of the workman. After considering the findings of the enquiry the workman was terminated after a proper and fair enquiry. So he has no claim and the reference may be answered in their favour.

On the pleadings of the parties, following issues were framed:—

1. Whether the domestic enquiry conducted by the respondent is proper, justified and in order? If so, to what effect?
2. Whether the termination of services of the workman is proper, justified and in order? If not, to what relief is he entitled?

Issue No. 1 is ordered to be treated as preliminary issue and my findings on issue is as under:—

Issue No. 1:—

The representative of the respondent argued on this issue that as stated by Shri S. S. Sachdeva, Enquiry Officer as MW-1 he knows the claimant and he conducted the enquiry against him. He was appointed as enquiry Officer on 23rd May, 1981. Shri Babu Lal was representing the workman on behalf of the workman. The workman appeared and participated in the enquiry. There were serious charges

against the claimant Shri Khem Chand regarding disobeying the order of his Commander, rebuking his Commander, trying to stab his Commander with a knife, threatening to murder his Commander and brought 5-6 miscreants after the close of the shift and waited for Shri Piare Lal, Commander upto 1. 30. a.m. during duty hours within the factory premises while on duty which constitute a serious mis-conduct against a workman under the certified standing orders of the company. He gave full facilities to to the workman which he demanded in the enquiry and also allowed the workman to assist him in the enquiry. The workman asked the outsider to represent in the enquiry, - vide Ex. M-2 and Ex. M-3 which was replied to him. The enquiry proceedings were fixed for 4/5 dates in which the workman participated. The witnesses of the respondent were taken in his presence and he cross-examined the witnesses. On 6th June, 1981, he did not come in the enquiry. So the enquiry was adjourned for the next date and the workman was sent a registered letter. On 6th June, 1981 at about 2.00 p.m. when the enquiry was started he sent Shri Mohabb Singh Security Officer in the enquiry room where he stated that the workman has boycotted the enquiry. He gave Ex.M-4 in the enquiry in which the messenger of the workman narrated that the workman came on the gate and did not want to participate in the enquiry. His representative also came at 2.40 p.m. and also stated that the workman has asked him not to participate in the enquiry as he is not participating in the enquiry. After this date the enquiry was adjourned and a letter was written to the workman on 12th June, 1981 through registered post to call the workman for 15th June, 1981. The letter Ex. M-5 was sent to the workman. The postal receipt is Ex. M-6, but on 15th June, 1981 the workman did not turn up. In the absence of the workman, the proceedings were adjourned and another letter dated 10th July, 1981 Ex.M-6 was sent through registered post, fixing the date as 16th July, 1981 for hearing. The workman received the same and acknowledgement receipt is Ex.M-7 which bears the signature of the workman. The letter sent to the workman on 12th June, 1981 received back undelivered which is Ex. M-8. After receiving the acknowledgement bearing the signature of the workman *ex-parte* proceedings were started against the workman on 16th July, 1981 on that date. The respondent produced no other evidence and closed their case. So the findings were given after going through the proceedings of the enquiry. The findings of the enquiry officer is Ex.M-10. The copy of complaint Ex. M - 11 and charge-sheet Ex. M- 12 were given by Shri Guljar Singh. The knife which was used by the workman and snatched by Shri Guljar Singh is Ex. M-13. The workman was given the full opportunity during the proceedings. He further argued that as stated by the workman in his cross-examination as WW-1 he cross-examined the respondent witnesses as he has stated in his cross-examination that he cross-examined Shri Gulzar Singh, witness of the respondents. He also admitted in his cross-examination that he was present in the enquiry on 4th June, 1981 and all the witnesses were taken up in his presence. He further admitted that the copy of the proceedings were given to him. He also admitted the hot words with Shri Piare Lal, Commander who made the complaint Ex-M-11. He further admitted that he has the knowledge of the enquiry on 15th June, 1981 but he was not allowed by the Security Officer. He further stated that he made another complaint about the stoppage at the gate by the Security Officer by any one. The workman also admits that Ex.M-7 bears his signature at Mark "A" and he received the charge-sheet and replied the same. The workman has admitted his correct address on Ex. M. 8 on which he states that he received no letter. From the admission of the workman in his cross-examination it is clear that the workman was given the full opportunity in the enquiry. The workman has stated in his statement that the enquiry officer did not write what the witnesses have stated before him and he produced Shri Mangat Ram as WW-3, who has stated in his statement that the enquiry officer did not write what he stated in his statement. He appeared on behalf of the respondent in the enquiry but in the cross-examination he has stated that what he has stated in the enquiry was read out to him before signing the same. and he signed the same. The witness has stated nothing and supported the respondents plea that the enquiry was proper and fair. The workman has produced Shri Babu Lal, WW-2 as his own witness who gave his affidavit Ex.W-1 who has stated that the claimant participated in the enquiry throughout, but he was not given the chance of cross-examination but he has stated in the cross-examination that there was no pressure on him to sit in the enquiry on behalf of the respondent. Also admitted that Shri Khem Chand cross-examined the witness and he participated in the enquiry up to the end on behalf of the workman. When he was not representing the workman why he participated in the enquiry after *ex-parte* enquiry against the workman. The witness gave no reply for the same. The witness has further stated that the claimant signed the proceeding after reading them and also admitting the signature of the workman and Shri Babu Lal witness which all shows that the proper opportunity was given to the workman in the enquiry and when after so many opportunities the workman absented *ex-parte* proceedings were started, because there was no other way to finish the enquiry. The workman has admitted this fact that he had acknowledge of the enquiry but he was stopped at the gate by the security officer. But he made no complaint to any authority or the respondent that he was stopped at the gate and not allowed to participate in the enquiry. In fact the charges against the workman were of so serious nature which were proved by his own witnesses that he attacked the commander and dis-obeyed the order of the Commander, so the enquiry was proper and fair and the workman was given full opportunity.

The representative of the workman argued on this issue that as stated by the workman as WW-1 he joined the service of the respondent as Shuttleman in the year 1974 and drawing a salary of Rs. 300 per month. He received the charge-sheet and a letter of enquiry. He sent the letter Ex. M-14 and

15 and M-2 to the respondent. He claimed outsider to represent him in the enquiry which was not allowed by the enquiry officer. He gave list of witnesses which were not called by enquiry officer in the enquiry and he was not allowed to cross-examine the respondent witnesses. He came on 4th June, 1981 to participate in the enquiry but he was not allowed to go in by the security staff. There was no dispute between me and Shri Piare Lal. There are some hot words between us and he did not attack Shri Piare Lal with a knife. The knife like Ex. M-13 was given to the workman to cut the thread on the machine and which was not meant for killing a person. He did not like Shri Babu Lal as representative but he was sitting there by the orders of the respondent and not on his request, as stated by Shri Babu Lal in his statement. He further argued that he produced Shri Babu Lal who has stated that he was presenting the workman on the asking of the respondent and not on the asking of Shri Khem Chand and Shri Khem Chand was not allowed to cross-examine the witnesses of the respondent. The workman has produced another witness Shri Mangat Ram WW-3 who has stated that the enquiry officer did not record proper statements of the witnesses. So the workman was not given proper opportunity in the enquiry. The charges against the workman were false and there was no truth in the charges. It is only done to remove the workman from the job.

After hearing the arguments of the parties and going through the file I am of the view that the workman was given the proper opportunity by the enquiry officer to participate in the enquiry. He was sent two registered letters in which he received one acknowledgement receipt which bears his signature which he admits in his cross-examination. He also admits in the cross-examination that he has the knowledge of enquiry but he was not allowed to go inside the factory where the enquiry proceedings were taking place by the Security Officer but he has further stated in his cross-examination that he made no complaint about the stoppage at the gate of the factory by the Security Staff to any authority. So it cannot be believed that no opportunity was given to the workman in the enquiry. The claimant admits that there was exchange of hot words between Shri Piare Lal and him and same fact is admitted by the workman's witnesses that there was exchange of hot words between the two which proves the allegation of the respondent. The workman has not specifically mentioned any fault of the enquiry officer except that he did not record the statements of the witnesses as they have stated which was cleared by the workman's witness Shri Mangat Ram as WW-3 who has stated in his cross-examination that the statement were read out to him who admitted the same and signed the same which prove that this allegation of the workman is also false. So the enquiry was fair and proper and the issue is decided in favour of the respondent and against the workman.

*Issue No. II :—*

After deciding Issue No. I in favour of the respondent and going through the charge-sheet and the enquiry proceedings I am of the view that there are serious charges against the claimant of mis-conduct under the Certified Standing Orders of the Company and after the enquiry and findings of the enquiry the respondent has rightly terminated the services of such workman, whose conduct is not fair in the factory. Attack on the Supervisor in the factory hinders the work of the factory which cannot be tolerated by the respondent. So he was rightly terminated by respondent after fair and proper enquiry. So the claimant is not entitled to any relief.

This be read in answer to this reference.

Dated the 30th March, 1983.

HARI SINGH KAUSHIK,  
Presiding Officer,  
Labour Court, Haryana  
Faridabad.

Endorsement No. 688, dated 1st April, 1983.

Forwarded (four copies) to the Commissioner and Secretary to Government Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK ,  
Presiding Officer,  
Labour Court, Haryana, Faridabad.